

FILED

OCT 26 2011

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT,
NORTHERN DISTRICT OF CALIFORNIA

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

JAMES ESTRELLA,

Defendant.

No. CR 3-11-70931 NC

STIPULATION AND ~~PROPOSED~~
ORDER CONTINUING HEARING FROM
OCTOBER 27, 2011 TO NOVEMBER 16,
2011

This case is scheduled for an arraignment or preliminary hearing on October 27, 2011. The parties have reached a pre-indictment resolution in this matter, however still need to receive a DEA laboratory report regarding the narcotics in this case to finalize the plea agreement. The parties believe that a continuance to November 16, 2011 would allow enough time to receive the laboratory report and finalize the plea agreement. The parties believe that a pre-indictment resolution is in the interests of the defendant and the government. The time is required for the effective preparation of defense counsel in representation of defendant.

The parties hereby jointly and respectfully request that the Court continue this matter to

STIP. AND ORDER
CR 3-11-70931 NC

Wednesday, November 16, 2011 at 9:30 a.m., before the duty Magistrate Judge for a preliminary hearing or arraignment.

The parties further stipulate that pursuant to Federal Rule of Criminal Procedure (FRCP) 5.1(d), the time limits set forth in FRCP 5.1(c) be excluded from October 27, 2011 through November 16, 2011. The parties agree that – taking into account the public interest in prompt disposition of criminal cases – good cause exists for this extension. Defendant also agrees to exclude for this period of time any time limits applicable under Title 18, United States Code, Section 3161. The parties represent that granting the continuance is the reasonable time necessary for effective preparation of defense counsel, taking into account the exercise of due diligence. See 18 U.S.C. § 3161(h)(7)(B)(iv). The parties also agree that the ends of justice served by granting such a continuance outweighed the best interests of the public and the defendant in a speedy trial. See 18 U.S.C. § 3161(h)(7)(A).

SO STIPULATED:

MELINDA HAAG
United States Attorney

DATED: 10/26/2011

/s/ Derek Owens

DEREK OWENS
Assistant United States Attorney

DATED: 10/26/2011

/s/ William A. Welch

WILLIAM A. WELCH
Attorney for the Defendant

For the reasons stated above, the Court hereby vacates the October 27, 2011 hearing before Magistrate Judge Timothy J. Bommer and continues it to Wednesday, November 16, 2011 at 9:30 a.m., before the duty Magistrate Judge for a preliminary hearing. The Court further finds that an exclusion of time from October 27, 2011 through November 16, 2011 is warranted and that the ends of justice served by the continuance outweigh the best interests of the public and the defendant in a speedy trial. See 18 U.S.C. §3161 (h)(7)(A); FRCP 5.1(d). The failure to grant

1 the requested continuance would deny defense counsel the reasonable time necessary for
2 effective preparation, taking into account the exercise of due diligence, and would result in a
3 miscarriage of justice. See 18 U.S.C. §3161(h)(7)(B)(iv).

4
5 SO ORDERED.

6
7 DATED: 10/26/11



THE HON. TIMOTHY J. BOMMER
United States Magistrate Judge